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AUG 22 2001

OFFICE OF PETITIONS

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|------------------------------|----------------------------|
| In re Application of | : |
| Paul John Griffiths | : |
| Application No. 09/524,436 | : DECISION REFUSING STATUS |
| Filed: March 14, 2000 | : UNDER 37 CFR 1.47(b) |
| For: IMPROVED AIR SPRING AND | : |
| PEDESTAL | : |

This is in response to the petition under 37 CFR 1.47(b), filed July 6, 2000. The Office sincerely apologizes for the delay in responding to the instant petition and any inconvenience caused to the petitioner by this delay.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 14, 2000, without an executed oath or declaration and naming Paul John Griffiths as the sole inventor.

Accordingly, on May 18, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on July 6, 2000, a Response to the Notice to File Missing Parts was filed which contained the following items:

- 1) Declaration and Power of Attorney executed by Mr. David L. Wisz on behalf of nonsigning inventor and associated surcharge late fee;
- 2) a copy of the Notice to File Missing Parts; and

3) Petition under 37 CFR 1.47(b) and associated fee.
On July 6, 2000, a Declaration and Power of Attorney signed by David L. Wisz on behalf of Paul John Griffiths was filed.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks item (2), (4) and (6) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The Declaration must be signed by an officer of the corporation (president, vice president, secretary or treasurer) on behalf of and as agent for the non-signing inventor. The declaration of Mr. David L. Wisz does not provide Mr. Wisz's title or position with respect to the Assignee. If the Declaration is not signed by an officer of the corporation, then proof of authority on behalf of the corporation must be submitted. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Griffiths is REQUIRED. See MPEP 409.03(b).

As to item (4), a statement of the inventor's last known address is missing and is required.

As to item (6), Rule 47 applicant failed to provide proof of Irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to prevent irreparable damage or preserve the rights of the parties would be sufficient.

Apparently, the declaration and Power of Attorney became separated from the Petition under 37 CFR 1.478(b). Therefore, the Office of Initial Patent Examination only saw the non-executed declaration received July 6, 2000. In response to this non-executed declaration, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply November 7, 2000, informing Applicant that the time was still running for a complete response. This Notice of Incomplete Response is hereby vacated since such non-executed declaration was accompanied by a Petition under 37 CFR 1.47(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to Lesley Morris at 703-306-0028.

A handwritten signature in black ink, appearing to read 'B. Flanagan', followed by a small 'For' written in the same ink.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy